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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 MATCONUSA LP,

11 Plaintiff,

12 v.

13 HOUSTON CASUALTY
COMPANY, et al.,

14 Defendants.
15

CASE NO. C19-1952JLR

MINUTE ORDER

16 The following minute order is made by the direction of the court, the Honorable
17 James L. Robart:

18 Before the court is Defendant Houston Casualty Company's ("Houston") motion
19 for partial summary judgment regarding Plaintiff Matcon USA LP's ("Matcon") claim
20 for indemnity benefits and Matcon's response thereto. (Mot. (Dkt. # 212); Resp. (Dkt.
21 # 215).) Houston asserts that Matcon cannot prove that non-party Graham Construction
22 & Management, Inc.'s ("Graham") damages in the underlying King County Superior

1 Court lawsuit were the result of “property damage” within the meaning of the parties’
 2 insuring agreement because “[t]here is no admissible evidence from the City [of Seattle]
 3 that it shut down the Project due to [Matcon’s] duct bank strikes.” (Reply (Dkt. # 221)¹)
 4 at 6; *see also id.* (asserting that none of the evidence cited in Matcon’s response
 5 establishes that any indemnity liability arose from the duct bank strikes).)

6 The court notes, however, that the parties jointly admitted in their agreed pretrial
 7 order that:

8 By or before October 25, 2018, Seattle City Light had ordered a “shutdown”
 9 of the Project *as a result of the ductbank strikes*, and it was not willing to lift
 10 the shutdown until they had a redesign that showed the tie-backs missing all
 11 of the utilities under the street.

12 (Pretrial Order (Dkt. # 183) at 8, ¶ 22 (emphasis added).) Neither Matcon nor Houston,
 13 however, cited this admission in their briefing on Houston’s motion for partial summary
 14 judgment. (*See generally* Mot.; Resp.; Reply; Matcon Surreply (Dkt. # 226); Houston
 15 Surreply (Dkt. # 234).)

16 The court ORDERS Houston and Matcon to file concurrent supplemental briefs
 17 addressing the effect, if any, of their joint admission regarding Seattle City Light’s reason
 18 for shutting down the Project on Houston’s motion for partial summary judgment. The
 19 parties shall file supplemental briefs of no more than 1050 words in length by no later
 20 than **Wednesday, March 15, 2023**. The court DIRECTS the Clerk to re-note Houston’s
 21 motion for partial summary judgment (Dkt. # 212) for March 15, 2023.

22 ¹ The operative version of Houston’s reply is attached to a praecipe to correct a
 previously-filed version of its reply. (*See* Praecipe (Dkt. # 221).) When citing Houston’s reply,
 the court refers to the page numbers that appear in the footer of the reply.

1 Filed and entered this 9th day of March, 2023.

2 RAVI SUBRAMANIAN
3 Clerk of Court

4 s/ Ashleigh Drecktrah
5 Deputy Clerk
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